LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

(ISSN: 2583-7753)

Volume 1 | Issue 2

2023

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DOMESTIC VIOLENCE TOWARDS MEN: A SOCIO-LEGAL ANALYSIS

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I. ABSTRACT

We live in a society where it propagates the notion that men and women should be treated equally. But when it comes to equality in the law, we are making it divergent for the existing genders where the law itself is assuming that women can only be the victim and men are the perpetrators especially in the cases of domestic violence which is creating injustice in the society, leaving the men feel inferior if they address their problem of being the sufferer of domestic violence. As society is assuming that men are physically strong and can dominate women in all the ways, it is making the concept more complicated as we cannot state that it is just about violence but also includes abuses faced by men through the acts of their respective spouse and other family members. Men also suffer similar domestic violence at the same intensity more or less like a woman but still the percentage of men domestic violence that are reported are relatively less. The major challenge in front of men is the fear of police as to seeking of help because of the indifferent way of interrogation, which again relates to the image in the society they are holding. As the society, majorly watch media which propagates the victimization of women and repeatedly showing that men are always guilty, it is leading to spicing up of this issue in a negative way. The social stigma of domestic violence towards men are so brawny that the society does not believe that men can also be the victim, which result in escaping of the abuser automatically. It can be clearly seen how the law is silent with the gender biased provision which only protect women from the violence leaving men and other genders with the question of doubt.

II. KEYWORDS:

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Domestic Violence, Abuse, Social stigma, Equality, Societal treatment, Victim.

III. INTRODUCTION

Domestic violence generally involves the use of any kind of abuse against a person within a household. The violence can be initiated by the intimate partner of an individual or any other person within the household setting. It is a common notion that while referring to domestic violence, it is mostly women who are deemed to be the victims of it. However, it is not true and there are many known and untold stories of men out there who has suffered violence in terms of physical, mental, emotional, sexual, financial, cultural, spiritual and reproductive abuse by the members of his own domestic establishment. The undermining of the gender-symmetrical violence claims is being no help to bring these issues faced by men into light and thus, it is not getting the required attention neither by society nor law to provide men with safety and protection regarding the same.

A. BACKGROUND OF THE STUDY

In the society, the focus is being mostly on the women is because, in the past times, there were less, or no concept of healthy relationships or marriage and it was because of the male dominance which saw women as their property by ignoring their needs[3]. Thus, followingly the violence and abuse against women was recognized and even the United Nations also considered this issue and it was included within the ambit of international human rights to protect the women. However, the changing time gave rise to a different situation where now even men are also becoming the victims of violence and abuse within the domestic setting. The existence of instances of men being the sufferers in the past cannot be denied but the percentage was less and unattended. But, in the recent years the cases are increasing and getting attention of the public. It was observed mainly through the increase of domestic violence against women which were filed where more than 60 percent of them was found to be false cases. This is also an example for abuse against men financially, mentally, and emotionally. According to the statistics provided by a bulletin, 1 in 4 women and 1 in

[3] BETTERHELP, https://www.betterhelp.com/advice/domestic-violence/a-history-of-domestic-violence-how-much-have-things-changed/ (Mar. 30, 2023).

6 men are being the victims of domestic violence[4]. Due to the changed setting, people are getting to know that violence are not only used against women but men too. But how much of it is a positive attention is a thinkable question. Many have raised their voice against this but the acceptance of the same by the society is relatively less compared to that of concern towards violence against women. However, the social media platforms have become partly successful in bringing this issue into the light. Countries like the United States of America and England have laws to protect both men and women against domestic violence[5]. This has also become one of the factors for the issue to be known widely by the people in the contemporary days.

B. RESEARCH PROBLEM

In the contemporary world, men and women are expected to be treated equally. There are many ongoing debates that argues that the law and society must take equal stand for both the genders[6]. But when the subject or issue of domestic violence is raised, men are not at all considered within the ambit of victims of domestic violence. Also, the legal remedies for domestic violence instigated against men, is still not particularly recognized unlike violence against women, mainly recognized under Protection of Women from Domestic Violence Act, 2005. Violence experienced by men are undermined and ignored by the society due to conservative thinking. Due to this, most of the violence experiences of men are not coming into light. Men are suffering in silence fearing the negative consequences and lack of belief of society towards their situation. As the public sees domestic abuse as women-centered and consider them as victims, they neglect and deny men to be the victims of the same. When it comes to domestic violence, men are mostly deemed as perpetrators even now rather than

[4] NISVS REPORT, http://www.cdc.gov/violenceprevention/pdf/nisvs_executive_summary-a.pdf (last visited Mar. 29, 2023).
Ruth S, *Men: The Overlooked Victims of Domestic Violence,* DOMESTIC VIOLENCE STATISTICS (Mar. 26, 2023, 7:26 PM), https://domesticviolencestatistics.org/men-the-overlooked-victims-of-domestic-violence /
[5] Solanki Megha, *Domestic Violence and Gender Neutrality*, BNWJ 1, 6-7 (2020), https://bnwjournal.com/wp-content/uploads/2020/12/Domestic-Violence-and-Gender-Neutrality-Megha-Solanki.pdf
[6] Miller Susan L and Lilley Terry G, *Female Perpetrators of Intimate Partner Violence*, (2008), https://books.google.co.in/books?id=BOKAMXEA_jQC&pg=PA292&redir_esc=y#v=onepage&q&f=false
Messner Michael A., *The Limits of 'The Male Sex Role': An Analysis of Men's Liberation and Men's Rights Movements' Discourse*, Vol. 12 SAGE JOURNALS 253, 254 (1998), https://journals.sagepub.com/doi/10.1177/0891243298012003002

victims[7]. The society, the government and the law-making bodies are failing to recognize domestic violence as a gender-neutral issue which is adding up to the helplessness of men and not at all aiding the overall improvement of their situation as victims of domestic violence.

C. EXISTING LEGAL SITUATION

Speaking of domestic violence, society and the law still assume women as the victim where in recent times it is not true as we can see many cases regarding domestic violence towards men are happening in the society. It can be observed that women may also be the perpetrator in these cases. Focusing towards the existing laws for the issue of domestic violence at world level, we can apprehend that many countries like USA, Britain, Canada, Austria, Germany are the countries where there is law does not discriminate between men and women as these countries have established gender-neutral laws, including domestic violence. But there are many other countries like Pakistan, Egypt, Kenya etc. which does not even have the law regarding domestic violence irrespective of any gender. If we look upon the legislation of domestic violence in India, it can be observed that only women can file a case regarding the use of violence against her within the domestic setting. It was first identified as a crime under Section 498A of the Indian Penal Code, 1860[8]. Currently, the law in India is in the favor of the women in reference to the discussing issue or area. The Protection of Women from Domestic Violence Act of 2005 also stipulates in Section 3 that it solely shields women from such assault.[9] This presupposes that males are invariably guilty and women are invariably innocent. Hence, there is no criminal legislation exclusively that protects a man against domestic violence and thus unfortunately, the Indian law does not shield males from such brutality.

C. RESEARCH QUESTIONS

[7] KIU INSTITUTIONAL REPOSITORY, https://ir.kiu.ac.ug/handle/20.500.12306/11838 (last visited Mar. 26, 2023).
[8] The Indian Penal Code, 1860, § 498A, 1860 (India).
[9] The Protection of Women from Domestic Violence Act, 2005, § 3, No. 43, Acts of Parliament, 2005 (India).

1) Why are men's experiences with violence treated indifferently?
2) What are the causes that are worsening the situation of men?
3) What is the approach of Indian legal system towards domestic violence experienced by men?

D. RESEARCH OBJECTIVES

1) To analyze the indifferent treatment of men's experiences with violence.
2) To understand the causes that are worsening the situation of men.
3) To study the approach of Indian legal system towards domestic violence experienced by men.

E. SCOPE AND LIMITATION

The research paper is initiated to understand the violence and abuse against men within the domestic setting. The scope of it is to understand the various reasons promoting the indifferent treatment of men when it comes to violence and the causes that are worsening the same situation due to the inherent misconception of society and law towards the entire concept of violence being restricted to women. This paper limits itself to the general societal perception and existing legal situation for domestic violence against men in India.

F. RESEARCH METHODOLOGY

A doctrinal research methodology is validated for this research paper which includes sources collected from primary and secondary sources such as case laws, legislations, acts and journals, and articles respectively. These sources assist the researchers throughout the research project to have an analytical understanding of the topic, mark hypotheses and draw conclusions. The study of this research paper is descriptive and analytical.

IV. ANALYSIS OF INDIFFERENT TREATMENT OF MEN AND ITS CAUSES

Most people in the society find it absurd to accept that even men are subjected to domestic violence and abuse. Generally, the idea is that it is only physical in nature and men are perceived to be always physically stronger and thus cannot be a victim of it. However, when keenly focused on this matter, many more things can be observed. First of all, violence includes many other kinds of abuses including financial, mental, emotional, sexual, etc., and followingly, the notion that man is a super-being than woman and can protect himself at every stage when it comes to physical act is also not true. The mind-set of the society is stuck at the fact that man is a being who is not feared of anything and thus, no violence can happen against him[10].

The reasons for this can be numerous and the way a family or society brings up an individual to be an adult based on their sexual orientation is an important factor that is adding up to this issue. Many perceptions can be drawn through this and some of those are perpetual patriarchal mindset, women victimization, seeing women as a secondary-citizen and believing that she will be unable to cause any trouble to men, misusage of law and societal mindset by women, reluctance of men to address their personal issues openly fearing the threat to their masculinity and dignity, etc.

The major factor for the indifferent treatment of men's experience with violence is the inherent mindset of people in the society. The social perception towards gender differences that overestimate the physical and other abilities of men to repel any kind of abuse and resolve their own issues[11], also becomes one of the reasons that makes men to stay silent about their difficult situation, fearing the humiliation if they raise their voices against the violence and abuse that is instigated against them. As discussed above, this notion develops since the birth of an individual with respect to the environment they are brought up in. Violence or abuse towards male can be

[10] Mishra Mahima, *The Effects of Domestic Violence on Men: Breaking the Social Stigma*, IPLEADERS (Mar. 27, 2023, 6:43 PM), https://blog.ipleaders.in/effects-domestic-violence-men-breaking-social-stigma/
[11] Patrick Wendy L, *How Battered Men Behave Differently*, PSYCHOLOGY TODAY (Mar. 27, 2023, 7:10 PM), https://www.psychologytoday.com/us/blog/why-bad-looks-good/202007/how-battered-men-behave-differently

instigated not only by his partner but also by his parents, siblings, in-laws, uncle or aunt or any other person within the household. But he is brought up in such a way either to repel or suffer that in silence and not make this a propaganda so as to not lose his respect in front of the society which it has towards his masculinity, strength and power. Thus, even if a man is unable to endure the excessive wrongs that is happening against him due to his own family, he is in such a situation where he is pushed to sort it out by his own diligence and not seek help of others. Even if he does that, it will be either non-acceptance from the other end or unserious treatment of his problems. This issue of men is largely ignored by the society and his situation is still viewed mostly as a family squabble and not as violence or abuse[12]. The inherent thought and social belief that dominance and misuse of power is only the characteristics of men and misconception of them being mostly defensive in nature is making it hard to believe that there can be situations where men can also be the victims of domestic violence and abuse.

For instance, a woman or another homosexual man forcing a man to have sex with her or him is mostly not considered as a threat to men's modesty, rather he is considered lucky. The misconception towards men's desires regarding these sensitive things may also add up to the issue and even if he is the victim of this, he will be blamed in the end if the woman especially says otherwise about their sexual relationship and the homosexual man denies this arrangement. Isn't this biased or blinded distrust on men, an indifferent treatment of a man's unpleasant experience with sexual abuse on him?

Violence against an individual is unacceptable regardless of their gender. The suffering of a person cannot be deemed less just because he is a man and can expect him to be tolerant towards this. It is undoubtedly a violation of human rights. Domestic violence is a very sensitive issue and as it happens within the four walls, not many cases come into light, and thus, very little information is available to assess the same. This could also be a reason for less awareness among people regarding the same. As it is viewed as a family business mostly by the victims themselves, they do not feel the necessary of intervention of law to solve this and hence, many cases go

[12] Srivastava Jyoti, *Domestic Violence Against Men*, 5 IJSR 1193, 1193 (2014), https://www.researchgate.net/publication/331159357_Domestic_Violence_against_Men

unreported. As long as men are expected to not show their weak side to the world and take care of their own problems, this indifferent treatment, and views towards men's experience with violence is hard to change and thus, becomes difficult to improve the situation of men, provide necessary attention to this issue and protect them against the growing practice of domestic violence and abuse in the name of self-defense, taming and discipline.

Any situation grows more difficult when it is not treated in a way it needs to be and the same goes with the situation of men who experience domestic violence and abuse. As already discussed above the lack of recognition and acceptance from the society and law, and men being reluctant to report their problems is mainly contributing to this worsening condition. Apart from all the societal expectations on men and non-attentiveness towards them, there are more factors that are being the causes of men's increased hardship.

One such main cause is being not able to distinguish between the responsibility and violence or abuse that is imposed upon men. There are certain general expectations that society have towards men and deems it as the duty of a man to fulfill it and if that is not attained, he is considered to be incompetent and is made fun of by his own blood relatives who lives in the same house. The indifference treatment of him starts from there and many verbal accusations regarding his financial status, competency may be thrown on him and he may be ridiculed for the same which results in emotional abuse of that man. Thus, the non-fulfillment of high standard expectations by a man leads to physical violence or any other form of abuse on him by his own family. However, this is seen as a way to mend him not at all considered as violence or abuse, and unfortunately in many cases, men also believe the same.

Forcing a man to take up a responsibility against his will and the criticism of his refusal adds up to his burden, but he is expected to manage it somehow and not complain about it. It can be the responsibility of having a child, high paying jobs, or any other thing. Even if it is unbearable in the eyes of that respective man, the family or his wife especially expects him to survive through it even if it adds up to his existing mental pressure and if he does not do so, they start mentally pressurizing him, which is

explicitly toxic. The emotional or physical intimidation by his family to induce him to do or not to do something is also a form of abuse or violence respectively. Especially when it comes to the sexual relationship, if a man refuses to have a child of his own, the family or especially wife may humiliate or degrade him for the same and does not take into consideration that he is being sexually abused by them and the man is coerced in some way to act in a particular way in the name of fulfilling his duties as a heir to the family and the husband to his wife. However, the inability of a man to voice out all these concerns is being one of the causes that is becoming a barrier for wider recognition of his difficult situation. The neglecting of conjugal duties and responsibilities by the wife due to extra-marital affairs or lack of trust also contributes to this issue.

Economic abuse on men is the most happened and happening abuse around the world within the households as he is entrusted to run a house with his earnings. In some cases, the unreasonable demand for financial supplies from older parents, siblings, wife, and the threat to abandon him if not met up with all those demands and putting him in such a situation where he can find no other alternatives is really cruel. Additional to this, threatening a man to drag him to the court where there are numerous provisions to protect women, senior citizens, etc., makes his situation worse as there will be an existing presumption by the law and the decision maker that the man is the offender and fearing the upcoming unfavorable situations he might face, a man is forced to act in such a way the family demands.

The usage of unfair advantage given by the law and society inheritably to the immediate family members of a man is additionally a concerning issue to be addresses that is most likely increasing the incidents of domestic violence and abuse against men as such. The abusive exercise of power and control is leaving the men scared and intimidated[13] and in most cases the lack of awareness to even identify this is as the usage of violence on him by his own family is a sad but true fact. Even if all these issues are raised in the society by men it hardly likely to be perceived in a way exactly it is and even if it is addressed, in most cases it comes down to finally blame the man

[13] Barber and Christopher F., *Domestic Violence Against Men*, 22 J. SCH. PUBL. 9, 9 (2013), https://www.proquest.com/openview/dd3f457235b1b4c95e40d4aa107b3c42/1?cbl=30130

for his non-competitiveness. He will be framed as being in the wrong in the end. The violence against men is overshadowed by such actions that may not seem like domestic violence on the surface but, in fact in reality represents a series of abuses against them which they are unable to seek help for.

It is to be understood that domestic violence and abuse on a person unfortunately being a method used to maintain the constant power and control over them mostly happens in a systematic pattern[14] and he is also in need of protection against domestic violence and abuse. The belief in men domination that is making it hard for anyone to believe that men can also be the victims and survivors of domestic violence is in need of call for immediate change in this mindset of society and the law, in order to provide such an opportunity or environment to address this issue and accept it as it is, and hence give methods to get recourse for the same.

V. APPROACH OF INDIAN LEGAL SYSTEM

Gender biased laws are making the whole situation worse as it is creating inequality in society for any gender as such. If we look upon the provisions provided in Indian legal system for the domestic violence, we can examine that the gender biased law for domestic violence is more favorable for one gender that is women which make this issue more complicated and leads to profusion of fallacious cases in the court regarding domestic violence. Having a gender biased law makes it already assumed that men cannot be the victim. Looking further into the existing laws of the country we can notice that there are no specific laws which can protect men from the domestic violence, Section 498A of Indian Penal Code only make a man held liable for committing domestic violence against the wife, but there is no such Act provided to make the women liable for the same.[15] Even Section 3 of the Protection of Women from Domestic Violence Act of 2005 states that it only protects women from such violence[16].

[14] Shalini Swati, *Domestic Violence and Its Types*, MYADVO (Mar. 27, 2023, 9:10 PM), https://www.myadvo.in/blog/domestic-violence-against-women
[15] Indian Penal Code, 1860, § 498A, No. 45, 1860 (India).
[16] The Protection of Women from Domestic Violence Act, 2005, § 3, No. 43, Acts of Parliament, 2005 (India).

But for the first time in ***Narayan Ganesh Dastane v. Sucheta Narayan Dastane***[17], the court for the first-time recognized cruelty against men within the domestic setting. However, something more is needed to protect men against domestic violence and abuse than a mere recognition. If we look upon the Supreme Court ruling in ***Sushil Kumar Sharma v. Union of India and Others***, the intent of Section 498A of the IPC is to stop the threat of dowry. Nonetheless, through the petitioner's arguments, other incidents came in to light where it was found that the complaints were false and lodged with ulterior motives and thankfully these were accepted by the court. It was also further noted that, in these situations, acquittal does not necessarily wash away the humiliation the blamed experienced throughout the series of incidents.[18]

If we look at another case of ***Arnesh Kumar v. State of Bihar***, the Hon'ble Supreme Court also admitted that the provisions under Section 498A of the Indian Penal Code are being utilized to harass the husbands and his relatives by disgruntled wives.[19] In ***Rajesh Sharma v. State of UP***, the Supreme Court issued specific directives to avoid exploitation of the current laws protecting women. The Court ordered an exclusive investigating officer to investigate complaints made under Section 498A of the IPC and associated concerns in order to avoid abuse of the law. In addition, the accused's bail application should be completed as soon as possible in circumstances when there has not been any clear human loss or harm.[20] If we see the two approaches of Indian law through civil and criminal way, we can perceive that both have a huge different perception in the law and in the civil law there is no such bifurcation in the provisions, irrelevant of the gender of the victim but there is no imprisonment or punishment as such and the victims only get the compensation for the damage or injury that occurred to them. But if we view the criminal aspect where one can get a harsh punishment or imprisonment, a criminal charge can really affect one's mental health seriously and it will worsen the situation if it is a false charge and additionally men especially have no

[17] N.G. Dastane v. S. Dastane, MANU/SC/0330/1975.
[18] Sushil Kumar Sharma v. Union of India and Others, MANU/SC/0418/2005.
[19] Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273.
[20] Rajesh Sharma and Ors. v. State of U.P. and Ors., MANU/SC/0909/2017.

recourse under criminal law solely for the domestic violence and abuse, they suffer. All the genders should be given the chance to be treated equally in the eyes of law.

In an instance, a man filed a case of domestic violence against his wife and her brothers, who allegedly robbed and attacked him, but the same was quashed by the Supreme Court as it is not maintainable under the Act. [21]If we look at the broader aspect under Section 13 of the Hindu Marriage Act, it only gives men an acceptable ground for divorce if he is treated cruelly after the marriage, but no punishment is such is sanctioned to the wife.[22] There is no such exact law currently in India where men can also file case for domestic violence and it is now essential to provide the same as we should know that a man also can be the victim of domestic violence not just from his spouse but from any other family member or relative within his domestic arrangement. Section 319 of IPC do deals with bodily harm, and punishes whoever causes bodily pain, disease, or infirmity to any other person.[23] But if we look upon the laws where women are getting special protection for domestic violence with the help of specific provision provided by the law, the same is not available for men as they are not even considered to be the victim of the same cause. Which is why even if no new provision that can be provided for men, the existing law can be made gender-neutral so that even men can get recourse exclusively for the domestic violence and abuse which is not available for them as of now. Until this issue is not handled sensitively by the law and society, nothing more can be done to protect men from this evil situation.

However, in a recent judgement by Justice D Y Chandrachud, the Hon'ble Supreme Court held that the laws regarding adultery are prejudiced towards males and hence there is a need to rectify these laws. Similarly, the laws of domestic violence are also prejudiced as they only recognize women as victims. There is still a lot to be done to make the Indian laws gender neutral. In fact, there are a few countries which have already accommodated provisions for domestic violence for both the genders in their

[21] Ashish Tripathi, *HC Orders on Domestic Violence Set Aside*, DECCAN HERALD (July 24, 2018), https://www.deccanherald.com/city/sc-sets-aside-hc-s-orders-683164.html
[22] The Hindu Marriage Act, 1955, § 13, No. 25, Acts of Parliament, 1955 (India).
[23] The Indian Penal Code, 1860, § 319, No. 45, 1955 (India).

constitution[24] and something similar is expected in India too for the protection of men and their human rights.

VI. CONCLUSION

Through all the above discussed points, the observation was drawn that the violence and abuse against men is still not considered nearly as grievous as against women neither by society nor law. There are no rigorous punishments for violence against men within a domestic setting exclusively as such. These are most often perceived as isolated incidents and the society considers that the man did something to deserve it even when he is not at fault. The stigma is overruling the attempt to bring this issue into the light and this is continuing to be the cause of increasing incidents of violence against men in the recent days. Man is not always an aggressor and he can be in the position to be mistreated as well and the general acceptance of this is an immediate necessary action. Until, this does not happen, the fear of men regarding threat to their respect and dignity by the society is unlikely to change. The creation of such an environment where men also feel safe and protected is highly needed and it just cannot happen until the whole society comes together to create a better world for everyone regardless their gender and identity.

The education system can bring such changes in the minds of people and the non-gender biased education system both in theory and practicality might help to bring such reforms where right from the beginning of life and learning, everyone will know that any kind of problems, occupation, suffering, emotions, practices are not confined to one gender but every single person and rather than evaluating a person based on their gender, the approach should be such that everyone out there has to be treated as a human and pay attention to the issues faced by an individual without any bias.

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